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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

Imperial Pacific International (CNMI) LLC,
Best Sunshine International Ltd.;

Plaintiffs,

Vs.

Commonwealth of the Northern Mariana
Islands, Commonwealth Casino
Commission, Edward C. Deleon Guerrero,
Chairman of CCC, in his official and
personal capacities; Rafael S. Demapan,
Vice Chairman of CCC, in his official and
personal capacities; Mariano Taitano,
Commissioner of CCC, in his official and
personal capacities; and Does 1-5, all
inclusive;

Defendants.

Case No. 24-cv-00002

**RESPONSE TO MOTION TO
DISMISS BY DEFENDANT CNMI**

Judge: Hon. David o. Carter

STATEMENT OF RELEVANT FACTS

On February 23, 2024, Plaintiff IPI filed the Complaint in the above captioned case. (ECF No. 1).

On April 25, 2024, Defendant CNMI filed a motion to dismiss under 12(b) (1) and (6). (ECF No. 23).

On May 9, 2024, Plaintiff IPI amended the Complaint (FAC) in the above captioned case for the first time. (ECF No. 26).

APPLICABLE RULES

Under Federal Rules of Civil Procedure, a party may “amend its pleading once as a matter of course” “21 days after service of a motion under Rule 12(b), (e), or (f).” Fed. R. Civ. P. 15(a)(1)(B).

“It is well-established in [the Ninth Circuit] that an ‘amended complaint supersedes the original, the latter being treated thereafter as non-existent.’” *Ramirez v. County of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (quoting *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997), *overruled on other grounds*, *Lacey v. Maricopa County*, 693 F.3d 896, 927-28 (9th Cir. 2012)) (citing *Valadez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011)). “In other words, ‘the original pleading no longer performs any function....’” *Id.* (citing *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992)).

CONCLUSION

The FAC filed by IPI superseded its Complaint, therefore the motion to dismiss filed by Defendant CNMI is moot.

Dated: May 8, 2024
Saipan, CNMI

Respectfully submitted,

By: /s/ Stephen J. Nutting
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